

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

ELIZABEH DIONICIO,	)	
	)	
Plaintiff,	)	CASE NO. 3:09-0575
	)	JUDGE HAYNES
v.	)	
	)	
BRAD ALLISON, Special Agent of the	)	
Tennessee Alcohol & Beverage	)	
Commission, DANIELLE ELKS,	)	
Director of the Tennessee Alcohol &	)	
Beverage Commission, and	)	
MARK HUTCHENS, Chief Enforcement	)	
Office of the Tennessee Alcohol &	)	
Beverage Commission, all in their	)	
Individual and official capacities,	)	
	)	
Defendants.	)	

**O R D E R**

Before the Court are: (1) Defendants' motions for judgment on the pleadings (Docket Entry Nos. 90 and 92); (2) Defendants' motion for leave of Court to amend their answer to the second amended complaint (Docket Entry No. 96; (3) Defendant's motion to reconsider (Docket Entry No. 97); and (4) Defendant's motion for leave to file a reply to Plaintiff's motion for sanctions (Docket Entry No. 105).

As to the Defendants' motions for judgment on the pleadings, (Docket Entry Nos. 90 and 92) Defendants (two of whom were dismissed, Docket Entry No 86) seek dismissal on grounds of qualified immunity that is not a defense raised in their original answer. For the reasons stated in open court and the authority cited in the Order (Docket Entry No. 98) these motions are **DENIED**. The Defendant Allison's motion to file an amended answer is **DENIED** based upon the authority cited in the Court's earlier Order (Docket Entry No. 98).

As to the Defendant Allison's motion to reconsider, (Docket Entry No. 97) the Equal Protection Clause of the Fourteenth Amendment applies to "any person within the jurisdiction of a State." Griffin v. Breckenridge, 403 U.S. 88, 95 (1971), including an illegal alien. Plyer v. Doe, 457 U.S. 202, 211-14 (1982). Thus, the Defendant's motion to reconsider is **GRANTED**, but the relief sought by the motion is **DENIED**.

It is so **ORDERD**.

**ENTERED** this the 31<sup>st</sup> day of March, 2011.

  
WILLIAM J. HAYNES, JR.  
United States District Judge